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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,650	07/01/2004	Roger Pellenc	1811-51	3031

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HOUSTON, TX 77002

EXAMINER

KOVACS, ARPAD F

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/500,650

Applicant(s)

PELLENC, ROGER

Examiner

Árpád Fábán Kovács

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/8/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 20, 21 are objected to because of the following informalities: “in the manner of a bogie” (according to the dictionary bogie is interpreted as “a low strongly built cart”) appears to be used in error or misspelled (cl. 20); “for” appears to be missing (last 2 lines of cl. 21). Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims are replete with errors, indefiniteness, unclearness, Applicant is required to review all claims and find & correct all errors, indefiniteness, unclearness issues, here are some of the examples:

it is unclear if “means to channel” intended to be – means for channeling – (cl 1, ln 8), it is noted that a subsequent reference to “means” (alone) can be confusing in view of the others means cited in the claim, such as “aspirating means” & “cutting means”;

in re “the turning intake drum” (cl. 1, ln 10-11), although a “rotating drum” was previously recited, the Examiner is not certain if the turning intake drum is the same as the rotating drum or another drum, especially considering the drawings show at least two elements that could be construed as drums;

in re “its axis of rotation” (cl. 1, ln 11), it is unclear whether “its” refers to the axis of the drum or the cutting means or the lateral wall;

in re “the lateral wall” (cl. 1, ln 10), it appears to lack positive antecedent basis in the claim;

in re “the opened cylindrical wall” (cl. 2, ln 2), it appears to lack positive antecedent basis in the claim;

in re “coat of mail type” (cl. 2, ln 3) is unclear what it means & what the metes and bounds of the claim consist of;

in re “drum” (cl. 2, 3, 5, 7, 8, 10) is unclear which drum the claim refers to, the intake drum or the rotating drum;

in re “at least equal to speed of movement during work” (cl. 3, ln 3), it appears to be incomplete, and unclear the speed of movement of what element it refers to;

in re “the wall, being flexible and deformable” (cl. 4, ln 2), it is unclear whether the opened cylindrical wall or the lateral wall is being referred to in “the wall,” and in

case the “cylindrical opened wall” is thought of, then the same limitation already was presented in claim 1;

in re “the circular upper and lower end” (cl. 4, ln 3), it is unclear to what device is being referred to and lacks positive antecedent basis in the claim;

in re “the wall ... a deformable” (cl. 4, ln 4), it is unclear & confusing, it appears this limitation was already recited in connection with “the cylindrical opened wall ... deformable” in claim 1;

in re “thereof” (cl. 5, ln 3), it is unclear what it refers to;

in re “an upper circular end element” (cl. 5, ln 2-3), it is confusing, since “elements” & “upper circular end” were recited in claim 4; it is unclear if a 2nd or another element & upper end is intended to be recited;

in re “the flexible wall” (cl. 6, ln 2-3), it is unclear if the “opened wall” or “lateral wall of the ... intake drum” is being referred to;

in re “the tension means are” (cl. 7, ln 2), it is unclear if more than one tension means are being considered and it lacks positive antecedent basis in the claim;

“the lower axle” & “lower part” (cl. 7, ln 3-4) lack positive antecedent basis in the claim;

“the cutting bar” (cl. 8, ln 3) lack positive antecedent basis in the claim.

As it was demonstrated in the above few claims, examples, the claims are replete with errors, unclearness, and indefiniteness. The Examiner will attempt the best guess interpretation of claim 1, because all the other claims further have indefiniteness issues, the rest of the claims would further add to the guesswork, thus they are not examined on their merit.

If not all of the errors and indefiniteness are fixed, without further examining the application on its merit, the Examiner may issue a Final Rejection based on indefiniteness, and/or issue a Non-Responsive Amendment action.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Lundahl et al (4896486).

Lundahl discloses:

Leaf stripping machine comprising:

at least one head (header 20) with a rotating drum (25) comprised of a lateral cylindrical opened wall (see mesh in fig 4);

means for driving the drum (rotating drum, col. 4, ln 49-50);

an aspirating means creating an intake air flow going through the opened wall ((fan 26);

means to channel air flow (baffle 38);

a cutting means near the wall (stripping element 24 capable of cutting);

the drum is flexible, deformable & permeable (mesh, col. 4, ln 61).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kateley, DeLaunay, Pellenc.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 571 272 6990. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272 6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Árpád Fábián Kovács
Primary Examiner
Art Unit 3671

ÁFK